IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 11609 of 2006(F)

PETITIONERS:

1. **P.M. SUNDARI, W/O. PALANIKUTTY, KADUKAPARAMBIL HOUSE, CHITTISSERY P.O.,TRICHUR.**
2. **K.P. PRADEEP, S/O. PALANIKUTTY, -DO- -DO-.**
3. **MARY @ KUNJAYI, W/O. RAPPAYI, VADAKETHU HOUSE, PAZHAYI P.O., PUTHUKKAD.**

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY SECRETARY,INDUSTRIES (A) DEPARTMENT SECRETARIAT, TRIVANDRUM.**
2. **GEOLOGIST, TRICHUR.**
3. **DISTRICT COLLECTOR, TRICHUR.**
4. **REVENUE DIVISIONAL OFFICER, THRISSUR.**
5. **TAHSILDAR, MUKUNDAPURAM TALUK, IRINJALAKUDA.**

BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF THE REPORT OF THE TAHSILDAR DTD. 05/03/04.**
EXT.P2:	**COPY OF THE REPORT OF THE VILLAGE OFFICER DTD. 26/02/04.**
EXT.P3:	**COPY OF THE MINUTES DTD. 10/02/03.**
EXT.P4:	**COPY OF THE NOTICE DTD. 30/09/04 OF THE GEOLOGIST.**
EXT.P5:	**COPY OF THE LETTER DTD. 01/01/05 OF GEOLOGIST, THRISSUR.**
EXT.P6:	**COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 1ST PETITIONER DTD. 18/11/05.**
EXT.P6(A):	**COPY OF REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 2ND PETITIONER DTD. 18/11/05.**
EXT.P6(B):	**COPY OF REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 3RD PETITIONER DTD. 18/11/05.**
EXT.P7:	**COPY OF THE JUDGMENT IN WP(C) NO.33751/05 DTD. 05/12/05.**
EXT.P8:	**COPY OF THE LETTER DTD. 09/12/05 OF GEOLOGIST, THRISSUR.**
EXT.P9:	**COPY OF THE ORDER DTD. 22/02/06 OF THE 1ST RESPONDENT.**
EXT.P10:	**COPY OF THE REVISION MEMORANDUM FILED BY PETITIONER DTD. 15/12/05.**
EXT.P11:	**COPY OF THE REPORT OF THE TAHSILDAR DTD. 05/03/04.**
EXT.P11:	**COPY OF THE MEMORANDUM OF REVIEW PETITION DTD. 15/06/06 FILED BY THE PETITIONER BEFORE THE GOVERNMENT.**

/TRUE COPY/

P.A.TO JUDGE

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V.GIRI, J.

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W.P.(C)No.11609 of 2006

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Dated this the 27th day of November 2007

JUDGMENT

Petitioners are the owners of an extent of 69 cents of garden land in Nenmanikkara village in Thrissur. According to them, they had applied to the Geologist as well as the Revenue Divisional Officer for getting quarrying permit under the Kerala Minor Mineral Concession Rules 1967. They had removed clay from that land also. Ext.P5 notice dated 1.1.2005 was issued by the Geologist proposing recovery of royalty under the said Rules. Then Ext.P6 series revenue recovery notices were issued to them demanding an amount of Rs.2,26,000/=. Petitioners contend that the revenue recovery notices were not preceded by an order passed by the Geologist and it was only after intervention by this Court, that copy of the order was supplied to the petitioner. Petitioners challenged Ext.P8 order before the government in an appeal which was also dismissed under Ext.P9. Petitioners have then invoked the remedy by way of a review as provided under Rule 51 of the Minor Mineral Concession Rules by filing Ext.P10 before the government.

2. Learned counsel for the petitioners submits that firstly the

royalty would not be payable in relation to the clay which is removed from a private property. Secondly, assuming that it is payable, the quantification of the royalty payable has not been done by the Geologist. There was no enquiry in that regard. These are the contentions which are urged in Ext.P10.

3. After having heard the learned counsel for the petitioner and the learned government pleader, the writ petition is disposed of directing the Additional Secretary to Government, Department of Mining and Geology to dispose of Ext.P10 within a period of four months from the date of receipt of a copy of this judgment. Further proceedings in pursuance of Ext.P6 series shall be kept in abeyance provided the petitioner pays an amount of Rs.50,000/- (Rupees Fifty thousand only) within one month from today. Balance amount payable will be subject to the decision taken by the government as aforementioned.

V.GIRI, JUDGE

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